



ELEMENT NINE

Corrective Actions/Sanctions

(29 CFR 37.54(d)(2)(C)(vii))



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Purpose

The State will address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(vii) in corrective and remedial actions to be applied when violations of WIA Section 188 or 29 CFR Part 37 are found.

Narrative

The State of Arizona has established procedures for corrective and remedial actions to be applied when there is a violation of WIA Section 188 and/or 29 CFR Part 37 by a Local Workforce Investment Area (LWIA) or sub-recipient. Corrective action will be sought whenever a deficiency is identified. This could be the result of a monitoring review or an EO complaint. Deficiencies can fall into two categories; deficiencies that do not involve discrimination (often called technical deficiencies), and those that do involve discrimination which always require a conciliation agreement.

When it is determined that the corrective action can be completed within forty-five days and the deficiency does not involve discrimination, immediate corrective action with a written assurance agreement is an appropriate action. The written assurance certifies that the discrepancy has been corrected. The assurance will list the deficiency and corrective action as specified in the written notification, describe the corrective actions taken and the dates of those actions, state that the LWIA or sub-recipient is taking and will continue to take steps to assure that the deficiency does not recur, and that the assurance is signed by the highest level official of the LWIA or sub-recipient.

Conciliation agreements are appropriate when it is determined that the corrective action cannot be completed within forty-five days or the deficiency involves discrimination. A conciliation agreement is comprised of an introduction describing who the agreement is between, the event that brought about the agreement and the legal authority by which the investigation was conducted and calls for corrective action. Also included in the agreement is a section that describes each deficiency and the action required to correct it, and an enforcement section that describes the consequences of a breach of the agreement.



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Sanctions are in place in the event the LWIA or sub-recipient does not abide by the agreement. These include partial funding, offsets, disallowance of selected cost, and litigation under state EO laws and contract laws. The ultimate sanction available is issuance of a notice of intent to revoke approval of all or part of the affected program.